

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption of New     )  
Rule I pertaining to mandatory cross     )  
reporting to law enforcement of     )  
crimes against children     )

NOTICE OF PUBLIC HEARING ON  
PROPOSED ADOPTION

TO: All Concerned Persons

1. On October 10, 2012, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on October 3, 2012, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I DEPARTMENT NOTIFICATION OF REPORTS OF CHILD ABUSE OR NEGLECT TO LAW ENFORCEMENT (1) Upon receipt of a child abuse and neglect report indicating that any of the crimes enumerated in (2) have been committed, the department must notify the appropriate local law enforcement agency in the jurisdiction where the alleged abuse or neglect occurred.

(2) Child abuse and neglect reports that indicate the following acts may have been committed are subject to the reporting requirements in (1):

(a) the death of a child as a result of child abuse or neglect;  
(b) a sexual offense, as defined at 46-23-502, MCA, against a child;  
(c) exposure of a child to an actual and not a simulated violent offense as defined in 46-23-502, MCA; or

(d) exposure of a child to circumstances constituting the criminal manufacture or distribution of dangerous drugs as defined at 41-3-102, MCA.

AUTH: 2-4-201, MCA

IMP: 41-3-201, 41-3-202, MCA

#### 4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) is proposing New Rule I in order to clarify the actions the Child and Family Services Division (CFSD) will take when the department receives a child abuse and/or neglect report that indicates the commission of specific criminal acts.

New Rule I requires CFSD to report allegations of certain serious crimes against children to law enforcement.

New Rule I is necessary to ensure compliance with the amendments to 41-3-201, MCA by the Montana Legislature in 2011 which required CFSD to accept reports of alleged child abuse and/or neglect, regardless of whether the alleged perpetrator of the abuse or neglect is a person responsible for the welfare of a child, as defined at 41-3-102, MCA. The clarification in New Rule I will ensure that child abuse and neglect reports that either fall outside the department's civil authority to investigate or are criminal acts are reported to the appropriate law enforcement organization for investigation.

#### Fiscal Impact

There is no fiscal impact.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., October 18, 2012.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed

text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by telephone and mail on August 31, 2012.

/s/ Mark Prichard  
Rule Reviewer

/s/ Anna Whiting Sorrell  
Anna Whiting Sorrell, Director  
Public Health and Human Services

Certified to the Secretary of State September 10, 2012.